Consultation Paper on Proposed Changes to Provincial Regulation 41/81

Governing Residential Care Licensing

March 1987

Manitoba
Community
Services

87-03668/

BACKGROUND

In Manitoba, residential care facilities for child welfare wards and mentally ill, mentally handicapped and infirm elderly persons are licensed and monitored under Regulation 41/81 of the Social Services Administration Act.

This regulation is currently administered by the Residential Care Licensing branch of Manitoba Community Services. In keeping with its emphasis on decentralized service provision, the Department is giving consideration to the eventual transfer of this responsibility to the appropriate program staff.

In September 1985, representatives of the Winnipeg Zoning Coalition met with Community Services Minister, Muriel Smith and Health Minister, Larry Desjardins. At issue was the limited scope of provincial legislation in protecting community interests when residential care facilities and clients are located in community neighbourhoods. The coalition's perspective was that concerns respecting community interests are also consistent with the best interests of residential care clients.

It was agreed that proposals for changes to the residential care regulation would be developed. These proposals would aim to protect community interests in a manner which is fair to clients and to their neighbours. These proposals have been completed, after consultation with provincial program staff and representatives of the Winnipeg Zoning Coalition.

The issues, the proposals and the rationale are contained in this report and made available to your organization. Any written comments

on behalf of your group would be appreciated. Please address your comments to:

Residential Care Licensing Regulation
Manitoba Community Services
Research and Planning
470 - 125 Garry Street
Winnipeg, Manitoba
R3C 3P2

ISSUES

Under Regulation 41/81 of the Social Services Administration Act, Manitoba Community Services approves residential care facilities housing one to four children or one to three adults. It also licenses facilities housing more than four children or three adults. The regulation deals with the physical, program, safety, hygiene and administrative standards of these facilities.

This regulation does not address the way in which residential facilities fit into their neighbourhoods. It does not ensure that the location or physical character of a residence does not isolate the residents from their neighbours. Nor does it ensure that the residence does not alienate other people who live in the neighbourhood. That is, the regulation does not address three related elements of successful community integration of facilities and their residents. These elements have been addressed in many studies and in other (mainly U.S.) jurisdictions:

- the consistency of appearance of a residential care facility with its surrounding neighbourhood;
- the adequate dispersion of facilities;
- adequate access by facility residents to required community goods, services and facilities.

As well, the current regulation has limited application. It does not require licensing residential facilities for offenders, physically disabled persons or people who have been mentally ill.

Partly because of these shortcomings of the provincial regulation, many Manitoba municipalities have zoning by-laws that control the location of group residences. Often they are a barrier to providing supports to people with special needs in a community.

The section below covers each of these main concerns and proposes ways to change the current regulation.

PROPOSALS

1. RESIDENTIAL FACILITIES SHOULD MATCH THEIR NEIGHBOURHOOD

Ensuring that the physical appearance of a residential facility conforms with its surrounding neighbourhood is based on the rationale that this will increase the neighbours' acceptance of the program and the residents. Similarly, residents will feel they belong if their home does not look too different or "institutional" or unkempt. While no province at present has a regulation which explicitly addresses conformity, Prince Edward Island has a policy that residential facilities must operate in a way that is consistent with community practice.

Proposal

1. **no new facility may be more than 25 per cent larger than the typical average dwelling size within a 100 metre radius of its proposed site,**

2. **a new facility and its grounds must have an outward appearance and level of maintenance similar to surrounding dwellings and consistent with residential care licensing standards.**

Implications

These changes would apply to both approved facilities (one to four children or one to three adults) and licenced facilities (more than four children or three adults).

The measures would ensure that a newly-located residence physically blends with the surrounding neighbourhood.

"Typical average dwelling size" would be determined by Residential Care Licensing staff. The 25 per cent larger size limit should allow for normal dwelling size variance within the surrounding area. Neighbouring homes within the 100 metre radius would become the standard when size comparisons are made.

2. RESIDENTIAL FACILITIES SHOULD BE DISPERSED

It is widely recognized that an over-concentration of group residences can hamper community integration. First, over-concentration can change a neighbourhood so that it no longer is the "typical" residential area which originally was attractive for community placement. Secondly, it reduces opportunities for clients to interact with people who are not group home residents. Finally, an excessive number of facilities in a neighbourhood can cause other area residents to be hostile to the homes and their clients. Positive attitudes among neighbours are important to smooth community integration.

Two levels of over-concentration that require control are:

- too many facilities in a sub-neighbourhood (eg. per block), and
- too many facilities in the neighbourhood or community as a whole.

Most provinces have left this matter entirely to municipalities. The result has usually been stringent municipal zoning controls to "protect" neighbourhoods from group residences. This in turn has made finding locations for new facilities more difficult. Ontario has tried to address this problem by issuing planning guidelines to municipalities. These guidelines encourage establishing appropriate dispersion limits.

Proposal

Within each electoral ward of Winnipeg and Brandon and within all other municipalities, local government districts and settlements within unorganized territories:

1. **no new licenced facilities will be allowed within a 300 metre radius of any other residential care facility,**

2. **no new licenced facility will be allowed if its establishment would result in more than one (1) per cent of the residents of the ward or community being residential care facility clients.**

Implications

This regulation would apply ONLY to homes licensed to provide care to more than four children or three adults.

A 300 metre dispersion limit would control concentration of facilities in sub-neighbourhoods. This dispersion limit was selected following an examination of limits being applied elsewhere in North America. Three hundred metres is the approximate mean of the limits in use in other places.

A ratio of clients to community residents of no more than one percent would help to limit concentration. It implies that no urban ward or community would have a higher such ratio than

Winnipeg's Memorial Ward. Memorial has the highest concentration of facilities and clients in the city. It is generally agreed to have reached its saturation point. This ward would receive no new licenced group residences.

These measures would not close other inner city wards to new group residences. However, they should encourage prospective operators to consider newer neighbourhoods where facilities are not common and where dispersion measures would not be an issue.

3. ACCESS TO COMMUNITY RESOURCES

This proposal aims to decrease the potential isolation of people living in a residential facility. The intent is to ensure that residents can use public facilities such as stores, banks, restaurants, schools, clinics, and churches in their neighbourhood. Using these facilities and meeting the other people who use them, will increase clients' chances to integrate, or reintegrate, into community life.

British Columbia, New Brunswick, Prince Edward Island and Saskatchewan all have measures to locate residential care homes near, or with access to, community goods and services.

Proposal

Every new facility:

1. **if it is to be located in a city or town, must be in an area zoned for residential use,**

2. **must be accessible to adequate transportation, recreational space, shopping facilities, appropriate leisure facilities, medical clinics and similar community resources,**

3. **must provide a transportation plan to facilitate access to necessary community resources, when they are not within reasonable walking distance and public transportation is not readily available or if the residents are incapable of utilizing public transportation or walking.**

Implications

This regulation would apply to both approved and licenced facilities.

The accessibility and adequacy of community resources and the adequacy of transportation plans would be determined by the Residential Care Licensing staff.

4. EXPANDING THE TYPES OF RESIDENTIAL CARE FACILITY TO BE APPROVED OR LICENSED

The current regulation omits residential facilities that serve physically disabled or post-mentally ill persons or offenders. Continuing to exclude facilities for these groups from the regulation would limit the effectiveness of the changes proposed here. It would also mean excluding people in these groups from the positive effects of the new measures and the existing regulation.

Most provinces license homes for mentally handicapped, psychiatrically disabled and physically disabled people and for children in care.

Proposal

Include under the regulation all new community correctional facilities and facilities for post-mentally ill and physically disabled persons.

Implications

Such an amendment would mean that facilities providing residential care to almost all population groups would be governed by the licensing regulation.

WHY PROVINCIAL MEASURES ARE NECESSARY

This paper does not propose legislation to pre-empt municipal control over residential care facilities. The measures suggested aim to support the Community Option for Manitobans with special needs. The proposals address the needs of people who live in licenced or approved homes. They also consider the concerns of neighbourhoods and communities where residential facilities are located or may locate.

The proposals are put forward to encourage municipalities to withdraw their zoning restrictions on licenced and approved residences. It is hoped that the Province and municipalities can co-operate in the important endeavour of ensuring good homes for Manitobans with special needs.

As noted earlier, Manitoba Community Services is also currently examining the eventual transfer of responsibility for administering this regulation from a central office to regionally based program staff. Such a change would complement the other new measures. It would ensure that measures aimed at ensuring that residential facilities fit into their community are administered by the persons most familiar with area service resources as well as local physical conditions and attitudes.

SUMMARY OF PROPOSALS

Proposal #1

1. No new facility can be more than 25 per cent larger than the typical average dwelling size within a 100 metre radius of its proposed site.

2. A new facility and its grounds must have an outward appearance and level of maintenance similar to surrounding dwellings and consistent with residential care licensing standards.

This regulation would apply to BOTH approved and licenced residential care facilities.

Proposal #2

Within each electoral ward of Winnipeg and Brandon and within all other municipalities, local government districts and settlements within unorganized territories:

1. No new licenced facilities will be allowed within a 300 metre radius of any other residential care facility.

2. No new licenced facility will be allowed if its establishment would result in more than one (1) per cent of the residents of the ward or community being residential care facility clients.

This regulation would apply ONLY to facilities licensed to provide care to more than four children or more than three adults.

Proposal #3

Every new facility:

1. If it is to be located in a city or town, must be in an area zoned for residential use.

2. Must be accessible to adequate transportation, recreational space, shopping facilities, appropriate leisure facilities, medical clinics and similar community resources.

3. Must provide a transportation plan to facilitate access to necessary community resources, when they are not within reasonable walking distance and public transportation is not available or if the residents are incapable of utilizing public transportation or walking.

This regulation would apply to BOTH approved and licenced facilities.

Proposal #4

Amend the regulation to include under its provisions all new community correctional facilities and facilities for post-mentally ill and physically disabled persons.